

## Quick Look:

### ***This document contains:***

Background Information, Quick Facts, FAQs and Additional Resources.

## Quick Facts:

### **Judges in Florida**

County Court Judge  
Circuit Court Judge  
District Court of Appeal Judge  
Justice of the Supreme Court

**5:** the number of District Courts of Appeal in Florida

**62:** the number of Florida District Court of Appeal Judges

**6 years:** the term length of a Judge appointed to the District Courts of Appeal. Appellate judges have the option to remain on the bench pending voter merit retention.

## **OPI Pulse: Judicial Qualifications Commission & Merit Retention for Appellate Judges**

### **Background:**

#### ***Judicial Qualifications Commission***

The Judicial Qualifications Commission (JQC) is an independent appointed body within the Florida Judicial branch responsible for investigating alleged errant judges. The JQC consists of two panels: an Investigative Panel and a Hearing Panel. The Investigative Panel is responsible for initiating an investigation into filed allegations or complaints. At the close of their investigation, the panel determines if there is in fact probable cause indicating the allegation or complaint is true or that some wrongdoing has occurred. If probable cause is found, the JQC Investigative Panel then sends their files to the JQC Hearing Panel so that those members may conduct a formal review. If probable cause is not established, the Investigative Panel's files remain confidential and undisclosed to the public. The Hearing Panel's review is structured much like a trial procedure. Upon completing their review, the Hearing Panel presents its findings and recommendations to the Florida Supreme Court, which has the responsibility of determining any disciplinary action. Disciplinary action may include public reprimand, a fine, suspension or removal from office.

#### ***Merit Retention for Appellate Judges***

There are several categories of judges within Florida's justice system including Justices of the Supreme Court, district court of appeal judges, circuit court judges and county court judges. Some judges are elected, such as county and circuit judges, while others are appointed like Supreme Court Justices or District Court of Appeal judges. Florida's appointed justices and judges serve six year terms and are often referred to as "appellate judges." Following their six year term, appellate judges are required by Florida law to participate in a "merit retention vote" in order to keep their position. The merit retention vote process currently requires that appellate judges garner a majority of the votes cast in an election in order to retain their seat on the bench. Appellate judges will be removed from office if a majority of the voters cast a vote against retention.

### **Issues at a Glance:**

The Civil Justice Subcommittee recently noticed two proposed committee bills (PCBs). PCB CVJS 11-05 related to the Judicial Qualifications Commission would make all investigative files of the Judicial Qualifications Commission public record. PCB CVJS 11-04 related to merit retention for appellate judges would require that appellate judges receive a 60 percent voter approval instead of a majority voter approval in order to retain their appellate judge position. Proponents have expressed the following reasons for the proposed committee bills:

#### ***Judicial Qualifications Commission***

- Currently, the citizens of Florida have no means to understand the allegations investigated by the Judicial Qualifications Commission or the results of those investigations. The Constitution provides that all investigative files of the Judicial Qualifications Commission, prior to a

***Representative John Legg***

***Speaker pro tempore***

Office of Public Information

850.921.7747

[PublicInfo@myfloridahouse.gov](mailto:PublicInfo@myfloridahouse.gov)

## Quick Facts (cont.):

### Current Supreme Court Justices

Chief Justice Charles T. Canady  
Justice Barbara J. Pariente  
Justice R. Fred Lewis  
Justice Peggy A. Quince  
Justice Ricky Polston  
Justice Jorge Labarga  
Justice James E.C. Perry

**7:** the number of Justices who make up Florida's Supreme Court today

**6 years:** the term length of a Supreme Court Justice. Justices also have the option to remain on the bench pending voter merit retention.

formal filing of charges against a justice or judge, are confidential. Proponents stress that Floridians should have access to information regarding justices and judges just as they have access to information regarding our state's lawmakers in accordance with public records law.

- According to the JQC, the majority of complaints received are in regards to a judicial decision. The JQC traditionally finds these complaints have no merit because objection to a judicial decision is not regarded by the JQC as grounds for discipline. Since all JQC investigative files are confidential and exempt, the public does not have any means to determine if complaints are in fact being handled appropriately within the Commission.
- Proponents assert that, due to existing confidentiality law, the public is prohibited from knowing of or understanding serious cases of alleged judicial misconduct which could impact their decision to vote or not vote for a judicial candidate.

### ***Merit Retention of Appellate Judges***

- In the history of judicial merit retention voting in Florida, there has never been an appellate judge who has lost a merit retention vote. Proponents believe this indicates these judicial posts can essentially be viewed as 'lifetime' positions.
- Proponents stress that the current standard of retention votes for appellate judges may foster an environment of autonomy without accountability, thus removing the important role of the electorate.

### **What the Bills Do:**

- PCB CVJS 11-05 regarding the Judicial Qualifications Commission proposes to open public access to complaints filed with the Judicial Qualifications Commission.
- PCB CVJS 11-04 regarding the merit retention standard for appellate judges proposes to increase the merit retention threshold from 50 percent to 60 percent.

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### Frequently Asked Questions:

***How many cases did the JQC receive in 2010?***

According to the Judicial Qualifications Commission, 620 cases were filed in the 2009-2010 fiscal year.

***What happens when a member of the public requests information such as an investigative file from the JQC?***

Under present law, the Judicial Qualifications Commission must deny any such request.

***How many judges have been fined or suspended as a result of a JQC investigation?***

In 2010, three formal JQC cases were completed before the Florida Supreme Court. One judge was required to appear before the court for a formal reprimand, the other two judges resigned under pressure.

***Why are proponents of the bills trying to eliminate the perceived 'lifetime' position status from appellate judge positions?***

Proponents assert the purpose of a merit retention system is to ensure these positions are held accountable to the electorate. Proponents claim the fact that a merit retention system was instituted in the first place demonstrates that appellate judge positions are not intended to be 'lifetime' positions.

### References:

[Florida House of Representatives](#)

[House Civil Justice Subcommittee](#)

[Florida Supreme Court](#)

[Judicial Qualifications Commission](#)

[Cases Filed by the JQC](#)

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Speaker pro tempore***

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